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Chapter No. 440  
10/SS26/R805SG  
JN 1/4/13

***SENATE BILL NO. 2841***

Originated in Senate *Nemethy* Secretary

SENATE BILL NO. 2841

AN ACT TO AMEND SECTION 99-13-7, MISSISSIPPI CODE OF 1972, TO CLARIFY UNDER WHAT CIRCUMSTANCES AND HOW A PERSON ACQUITTED BY REASON OF INSANITY AND COMMITTED TO MENTAL TREATMENT MAY BE RELEASED FROM CONFINEMENT; TO CREATE SECTION 41-21-88, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DIRECTOR OF A TREATMENT FACILITY TO WHICH A PATIENT HAS BEEN COMMITTED SUBSEQUENT TO BEING FOUND NOT GUILTY OF A CRIMINAL CHARGE BY REASON OF INSANITY TO NOTIFY THE SHERIFF OF THE COUNTY OF DESTINATION AND THE VICTIM BEFORE RELEASE; TO AMEND SECTION 41-21-87, MISSISSIPPI CODE OF 1972, TO CONFORM AND TO REQUIRE NOTICE OF RELEASE TO PERSONS FOR WHOM A RESTRAINING ORDER HAS BEEN ISSUED TO PROTECT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 99-13-7, Mississippi Code of 1972, is amended as follows:

99-13-7. (1) When any person is indicted for an offense and acquitted on the ground of insanity, the jury rendering the verdict shall state in the verdict that ground and whether the accused has since been restored to his sanity and whether he is dangerous to the community. If the jury certifies that the person is still insane and dangerous, the judge shall order him to be conveyed to and confined in one of the state psychiatric hospitals or institutions.

(2) There shall be a presumption of continuing mental illness and dangerousness of the person acquitted on the ground of insanity. The presumption may be challenged by the person confined to the state psychiatric hospital or institution and overcome by clear and convincing evidence that the person has been restored to sanity and is no longer dangerous to the community. The court ordering confinement of the person to a state psychiatric hospital or institution shall conduct the hearing to

determine whether the person has been restored to sanity and is no longer dangerous to the community. The person shall have the right to counsel at the hearing and if the person is indigent, counsel shall be appointed. The provisions of this subsection shall not apply to a person found by the jury to have been restored to sanity and no longer a threat to the community.

**SECTION 2.** The following shall be codified as Section 41-21-88, Mississippi Code of 1972:

41-21-88. A person committed pursuant to Section 99-13-7 shall not be released for any reason without order of the court having confined the person. Prior to release, the sheriff of the county where the offense was committed, the sheriff of the county of the committed person's destination and the crime victim or an immediate family member shall be notified of the release.

**SECTION 3.** Section 41-21-87, Mississippi Code of 1972, is amended as follows:

41-21-87. (1) The director of either the treatment facility where the patient is committed or the treatment facility where the patient resides while awaiting admission to any other treatment facility may discharge any civilly committed patient upon filing his certificate of discharge with the clerk of the committing court, certifying that the patient, in his judgment, no longer poses a substantial threat of physical harm to himself or others.

(2) A director of a treatment facility specified in subsection (1) above may return any patient to the custody of the committing court upon providing seven (7) days' notice and upon filing his certificate of same as follows:

(a) When, in the judgment of the director, the patient may be treated in a less restrictive environment; provided, however, that treatment in such less restrictive environment shall be implemented within seven (7) days after notification of the court; or



(b) When, in the judgment of the director, adequate facilities or treatment are not available at the treatment facility.

(3) Except as provided in Section 41-21-88, no committing court shall enjoin or restrain any director of a treatment facility specified in subsection (1) above from discharging a patient pursuant to this section whose treating professionals have determined that the patient meets one (1) of the criteria for discharge as outlined in subsection (1) or (2) of this section. The director of the treatment facility where the patient is committed may transfer any civilly committed patient from one facility operated directly by the Department of Mental Health to another as necessary for the welfare of that or other patients. Upon receiving the director's certificate of transfer, the court shall enter an order accordingly.


(4) Within twenty-four (24) hours prior to the release or discharge of any civilly committed patient, other than a temporary pass due to sickness or death in the patient's family, the director shall give or cause to be given notice of such release or discharge to one (1) member of the patient's immediate family, provided the member of the patient's immediate family has signed the consent to release form provided under subsection (5) and has furnished in writing a current address and telephone number, if applicable, to the director for such purpose. The notice of release shall also be provided to any victim of such person and/or to any person to whom a restraining order has been entered to protect from such person. The notice to the family member shall include the psychiatric diagnosis of any chronic mental disorder incurred by the civilly committed patient and any medications provided or prescribed to the patient for such conditions.

(5) All providers of service in a treatment facility, whether in a community mental health/retardation center, region or state psychiatric hospital, are authorized and directed to request

a consent to release information from all patients which will allow that entity to involve the family in the patient's treatment. Such release form shall be developed by the Department of Mental Health and provided to all treatment facilities, community mental health/retardation centers and state facilities. All such facilities shall request such a release of information upon the date of admission of the patient to the facility or at least by the time the patient is discharged.

**SECTION 4.** This act shall take effect and be in force from and after its passage.

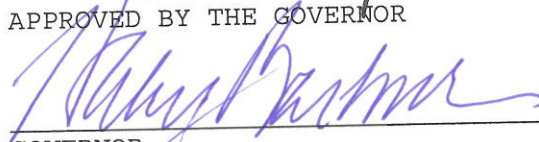
PASSED BY THE SENATE  
February 3, 2010

  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 3, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
GOVERNOR

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